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an electronic communications network connected between said local controller and said analysis controller and permitting transmission of said acquired data from said local controller to said analysis controller;

a hand held device receiving at least a sub-set of said acquired data stored in said analysis controller; and

wherein said hand held device is not said local controller.

Sub C1
13. (Once Amended) A system as recited in claim 10, wherein said system includes an authorization subsystem, said authorization subsystem including an asset access mechanism to receive a user identification from a data transmission point associated with the asset and comparison of said user identification from said data transmission point with said user identification from a remote database to confirm the identify of said user.

Sub C1
16. (Once Amended) A system for gathering and analyzing data relating to a non-fixed movable asset comprising:

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a local controller located at a first location for acquiring data that is representative of at least one operating characteristic of the asset;

an analysis controller located at a second location that is responsive to said acquired data from said local controller for generating an analysis of said acquired data;

an electronic communications network connected between said local controller and said analysis controller and permitting transmission of said acquired data from said local controller to said analysis controller, said analysis controller including a database, said database including data values, collected data and comparison data being available for a selected data value;

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a hand held device including a form, said form providing at least a subset of said data values for the entry of foundational data, said foundational data being transmitted to said analysis controller and stored in said database; and

wherein said local controller is not said hand held device.

Sub C1 18. (Once Amended) A system for gathering and analyzing data relating to a non-fixed movable asset comprising:

an asset access device;

a local controller located at a first location for acquiring data received from said asset access device that is representative of a request for user authentication;

an analysis controller located at a second location that is responsive to said user authentication to generate an analysis of said request;

an electronic communications network connected between said local controller and said analysis controller and permitting transmission of said request from said local controller to said analysis controller; and

wherein said asset access device is not said local controller.

19. (Once Amended) A system as recited in claim 18, further including an authorization subsystem and an asset controller, said asset access device receiving a user identification, said user identification being compared with a corresponding user identification stored in said asset controller, and providing selective access authorization based on additional user data stored in said asset controller for said user identification.

REMARKS

As a preliminary matter, the Applicants thank the Examiner for providing the results of the prior art search and for the September 9, 2002 Office Action (the "Office Action"). This response addresses the rejection of: (1) claims 5 and 6 pursuant to 35 U.S.C. 112 first paragraph; (2) claims 13 and 19 pursuant to 35. U.S.C. 112 second paragraph; (3) claims 1-4 and 8-15 as anticipated by U.S. Patent No. 6,084,528 to Beach et al. ("Beach") pursuant to 35 U.S.C. 102(e); (4) claim 18 as anticipated by U.S. Patent No. 5,256,863 to Ferguson et al. ("Ferguson") pursuant to 35 U.S.C 102(b); and (5) claims 5, 6, 7, 16, and 17, as unpatentable over Beach in view of U.S. Patent No. 5,664,110 to Green et al., ("Green") pursuant to 35 U.S.C 103(a); and (6) claims 19 and 20 as unpatentable over Ferguson in view of Beach.

As amended, Applicants' claims meet the requirements of 35 U.S.C. 112. Furthermore, the prior art cited by the Examiner fails to disclose all of the elements included in the Applicants' claims as amended. Thus, all claims as amended are in condition for allowance.

I. 35 U.S.C. 112 FIRST PARAGRAPH (Claims 5 and 6)

Claims 5 and 6 were rejected in the Office Action because the Examiner asserted that “pages 35 and 36” of the specification “do not disclose how the data values are used in the entry of foundational data” and that “foundational data” is itself not disclosed (Office Action, page 2). The Applicants traverse the Examiner’s rejection.

Claims 5 and 6 are fully supported on pages 32-33 of the specification. The “foundational data” of claim 5 is referred to as “a foundational base of information” on line 5 of page 32, and is supported in the specification thereafter. It is the “foundational data” of claim 5 that “provides a framework for further analysis” on line 5 of page 32. In terms of how the data values are used, the “forms” of claim 5 are an important element for the collection “data values” and for the “entry of foundational data.” Lines 6-16 on page 32 of the specification disclose how “forms” collect “data values” for the entry of “foundational data.”

Ideally, pre-created forms or templates help facilitate data collection and analysis. For example, when talking to a potential customer, it would be helpful to have access to cross-reference materials related to competitor assets, lease pricing rate factors, historical data and the like. Certain query forms can be used to collect relevant raw data and other query forms can be used to retrieve useful data based on a consideration of the raw data to provide the basis for recommended courses of conduct to promote safe utilization and efficiency while reducing costs. Thus, the actual analysis typically takes place at a central location having the appropriate computational resources with the results preferably being transmitted to hand held device 168. Under some circumstances, an analysis is possible directly on-site using the data collected and analyzed without direct access to database 78 based on a sub-set of data and logic protocols in the form of analysis tools stored on hand held device 168 (page 32, lines 5-17).

The following paragraph of the specification goes into even greater detail in the process for the “entry of foundational data.”

A data acquisition and analysis subsystem 300 is illustrated in Fig. 10. Subsystem 300 facilitates the collection of raw fleet survey data 302 upon initiation of system 30 by a party so that a baseline level of data [e.g. “foundational data”] may be provided to system 30 for consideration and analysis. An account manager 304 collects raw data with respect to each affected asset 31 and all parties having interaction with the asset such as the parties identified with respect to Fig. 5 above. Of course, other parties may also contribute fleet survey data if they have interaction with an asset

31. The data is preferably inputted into a handheld device 168 using pre-defined forms 306, transmitted to a desktop computer 308, and then ultimately stored in analysis controller database 78. To help with analysis of particular data, the process may be reversed, with data pulled from database 78 to desktop computer 308, transmitted to hand held device 168, and used by account manager 304 to perform a desired analysis for any affected party (page 32, line 27 – page 33, line 6).

The above citations disclose how data values entered into the system can be used as foundational data. Thus, claim 5 is fully enabled in accordance with Section 112 first paragraph. Claim 6 was rejected because claim 6 is dependent on claim 5, and thus claim 6 is also in condition for allowance.

II. 35 U.S.C. 112 SECOND PARAGRAPH (Claims 13 and 19)

Claims 13 and 19 were rejected because the elements “user identification” in claim 13 and “asset controller” in claim 19 lacked a sufficient antecedent basis. Claims 13 and 19 have been amended to provide a sufficient antecedent basis. As amended, claims 13 and 19 are in condition for allowance.

III. 35 U.S.C. 102(e) (Claims 1-4 and 8-15)

Claims 1-4 and 8-15 were rejected as being anticipated by U.S. Patent Number 6,084,528 to Beach et al. (“Beach”). As amended, Applicants’ claims are not anticipated by Beach.

A. Distinctions in the Independent Claim Elements

1. Local controller and handheld device are different devices

Examiner asserts that the “portable terminal” of Beach anticipates the elements of both the “local controller” and “handheld device” of claim 1. Figure 2 of Beach discloses on a single device, a diagram of what is referred to as a “portable terminal” in the Brief Description of the Drawings (column 2, line 61). No other devices are disclosed in Figure 2. Figure 2 is used to anticipate both the “local controller” and “handheld device” elements. See page 4 of the Office Action. The local controller and handheld device elements are different devices, and thus, Applicants’ claim as amended, cannot be anticipated by Beach.

All of the independent claims have been amended to include the distinction that the portable terminal and local controller are not the same device. For example, claim 1 now

contains the limitation of “wherein said hand held device is not said local controller.” Beach does not and cannot disclose this limitation. Thus, Applicants’ claims are in condition for allowance.

Furthermore, there are additional element relationships that are now more clearly distinguishable as a result of the added limitation. Beach cannot be said to disclose both “a **hand held device** receiving at least a sub-set of said acquired data stored in said **analysis controller**” and “an electronic communications network connected between said **local controller** and said analysis controller” because the “portable terminal” in Beach cannot be both a local controller and a hand held device.

If the Examiner disagrees with the distinctions presented above, the Applicants respectfully request that the Examiner specifically link devices in Beach (including element numbers) to the Applicants’ claim elements in order to more clearly and specifically set forth the functionality provided by the various components.

2. Beach does not disclose the generating of an “analysis” by an analysis controller

Contrary to the assertions of the Examiner, the ability to generate an “analysis” of data does not appear within Beach. The word “analysis” is not found even once within the Beach disclosure, and the ability to do anything with data besides access, store, or modify specific data entries is not disclosed within Beach. Contrary to the assertions of the Examiner, the “central host” of Beach merely “retrieves data, processes information and retransmits data to the portable terminals (column 6, lines 4-5).” In lines 3-13 of column 7, the only example of “central host” functionality is the ability “to confirm that the corresponding customer data file exists.” Thus, contrary to the assertions of the Examiner on page 4 of the Office Action, the “remote database” of Beach is not the same thing as the Applicants’ “analysis controller.” A remote database is limited to the storage, retrieval, and updating of information. Analysis generated by an analysis controller is outside the purview of what databases do, which is store data without analysis. Within the entire Beach disclosure, there is no mention of generating any analysis, or any function dealing with data that goes beyond merely recording, accessing, or modifying data that has been captured by the Beach. The absence of an analysis controller in the Beach disclosure independently supports that the patentability of Applicants’ independent claims.

B. Dependent Claim Elements

All of the dependent claims are in condition for allowance because the independent claims on which they depend, are in condition for allowance. Moreover, additional factors support allowance with respect to the dependent claims.

No analysis controller is disclosed in Beach, and the portable terminal in Beach cannot be both the local controller and the handheld device of the Applicants' claims. Thus, Beach cannot disclose "a handheld device in direct contact with the analysis controller." Therefore, claim 2 is in condition for allowance.

Beach cannot be said to disclose a "second computer . . . between said analysis controller and said hand held device." As discussed above, Beach does not disclose an analysis controller of any kind. Moreover, no computer system in Beach is disclosed between the central unit and the portable terminal. Figures 7A-7E merely disclose a portable terminal, they do not disclose the existence of any particular sequence or configuration of multiple devices. The "access points" of Figure 1 are purely navigational devices, with no computational functionality. Thus, a second computer that "selectively modifies aspects of said acquired data, and forwards said acquired data including said modified aspects" is not disclosed in Beach. Claims 3 and 4 are in condition for allowance.

As discussed above, Beach does not disclose an "analysis controller." Beach cannot be said to disclose an analysis controller with a "database including data values, collected data and comparison data being available for a selected data value." In Beach the only comparison functionality is performed by the portable terminal, not the analysis controller (column 10, lines 64-67). Thus, claim 8, and all of the claims that depend on claim 8 (claims 9, 10, 11, 12, 13, 14 and 15) are in condition for allowance.

Beach fails to disclose any functionality relating to "best practices" and thus, claim 9 is independently in condition for allowance on that basis. Despite the Examiner's assertions to the contrary, neither the words "best practices" nor any equivalent terminology, appears within the Beach disclosure. Similarly, Beach fails to disclose "user data representing a user accessing the asset." The Beach disclosure *is limited to the purchase of assets*, and does not pertain in any way to the *use*, operation, or access to the asset. Thus, claim 10 is in condition for allowance. Claim 12 is in condition for allowance because the elements of "user training" and

“class of assets” are not disclosed by beach. Beach does not disclose an **“data transmission point associated with the asset”** or an **“analysis controller,”** so claims 13, 14, and 15 are in condition for allowance. Claim 15 is further distinguishable from Beach in that Beach does not disclose any role in **“permitting operation of the asset.”**

IV. 35. U.S.C. 102(b) (Claim 18)

Claim 18 was rejected as being anticipated by U.S. Patent No. 5,256,863 to Ferguson et al. (“Ferguson”) pursuant to 35 U.S.C 102(b). Applicants traverse the rejection because Ferguson fails to disclose all of the claim elements. No consistent interpretation of Ferguson can disclose all of the elements in Applicants’ claim 18. Claim 18 includes **“a local controller located at a first location for acquiring data received from said asset access device that is representative of a request for user authentication.”**

If the “asset access device” of claim 18 is disclosed in Figure 3 of Ferguson as asserted by the Examiner, then the Examiner asserts that the “lane terminal device” (element number 16) of Ferguson is the “asset access device” of claim 18. Upon that conclusion, only the POS terminal (element 6) could possibly constitute the “local controller” of claim 18. “In FIG. 1, a lane terminal device 16 is associated with the POS terminal 6 (column 8, lines 7-9).” No other association in Ferguson appears remotely similar to the relationship between access device and local controller in claim 18.

Applicants traverse the Examiner’s rejection because there is no evidence in the Ferguson disclosure that the local controller (i.e. POS terminal) receives user authentication information from the asset access device (i.e. lane terminal device). The portions of Ferguson cited by the Examiner (Column 20, Lines 10-57) fail to mention any exchange of information between the lane terminal device (i.e. local controller) and the POS terminal (i.e. access device). In fact, that portion of Ferguson fails to make any mention of the POS terminal whatsoever. This is because **in Ferguson, it is the lane terminal device (i.e. local controller) and not the POS terminal (i.e. asset access device) that acquires data “representative of a request for user authentication.”** The POS terminal simply plays no role in the authentication process.

The only device in Ferguson that receives any type of authentication information is the “universal system controller (column 20, lines 15-18).” Such a controller cannot be said to be a

“local” controller” located at a first location. The universal system controller is not local to the POS terminal. Moreover, the “universal system controller” in Ferguson is the only component in Ferguson that could be said to function as the “analysis controller” in claim 18. Thus, if Ferguson is interpreted to anticipate the “local controller” functionality of claim 18, Ferguson cannot also be said to also anticipate the “analysis controller” functionality of claim 18. Furthermore, there is no interpretation of the disclosure of Ferguson that would disclose the amended element of claim 18, “wherein said asset access device is not said local controller.” Claim 18 is therefore in condition for allowance.

If the Examiner disagrees with the distinctions presented above, the Applicants respectfully request that the Examiner specifically link devices in Ferguson (including element numbers) to the Applicants’ claim elements in order to more clearly and specifically set forth the functionality provided by the various components.

V. 35 U.S.C. 103 (Claims 5, 6, 7, 16, and 17)

Claims 5, 6, 7, 16, and 17 were rejected as being unpatentable over Beach in view of Green. Applicants’ traverse the Examiner’s rejection.

As discussed above, claims 5, 6, and 7 are in condition for allowance because they depend on claim 1, which is in condition for allowance. There is no indication that either Beach or Green discloses the elements of **“forms providing data values for the entry of foundational data associated with said data values.”** The Applicants’ “foundational data” is not the same thing as the “shopping list” of Green. The shopping list of Green is not used for the purposes of comparing usage and operational data. Rather, Green simply allows for a pre-stored checklist. The pre-stored checklist of Green does not anticipate the “foundational data” of the Applicants’ claims. Thus, the timing of a collection of “foundational data”, whether **“prior”** or “subsequent,” cannot be said to be disclosed by either Beach or Green. Moreover, neither Beach nor Green is cognizant of anything besides finished products that can be purchased. **“Parts data,”** in contrast to asset data, is not disclosed in Beach or Green.

Furthermore, there is no affirmative suggestion or motivation in the art to combine Green and Beach. Such a combination is particularly inappropriate when the retail environment of Beach and Green is contrasted with the operational and business management context of the